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**TESTA, HURWITZ & THIBEAULT, LLP**

JUL 01 2004

ATTORNEYS AT LAW

HIGH STREET TOWER

125 HIGH STREET

BOSTON, MASSACHUSETTS 02110

OFFICE (617) 248-7000

FAX (617) 248-7100

**TELECOPY COVER SHEET**

*Equipment Operator Contact Number: 617-310-8671. Please call if you do not receive all the pages.*

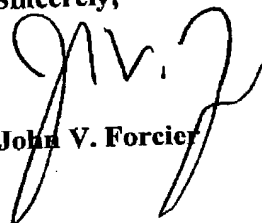
**TO:**           **Date:**           July 1, 2004  
                 **Name:**       Examiner Anthony D. Stashick of Art Unit 3728  
                 **Company:**   U.S. Patent and Trademark Office  
                 **Address:**  
                 **Telephone:** 703-308-3876  
                 **Fax:**         703-872-9306  
  
**FROM:**       **Sender:**     John V. Forcier, Esq.  
                 **Number of Pages INCLUDING This Cover Sheet:**       7  
                 **Client:**     U.S.S.N. 09/915,216 Attorney Docket No. ADI-074

**Mail Stop Issue Fee**

**Comments:**

Attached, please find an Authorization to Charge Deposit Account and associated papers.

Sincerely,

  
John V. Forcier

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PATENT  
Attorney Docket No. ADI-C74  
(257/40)

JUL 01 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Berger et al.  
SERIAL NO.: 09/915,216 GROUP NO.: 3728  
FILING DATE: July 25, 2001 EXAMINER: A. D. Stashick  
TITLE: Climate Configurable Sole and Shoe

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence, and any document(s) referred to as attached hereto, is/are being transmitted to the United States Patent and Trademark Office, Facsimile No. (703) 872-9306 on this 1 day of July, 2004.

  
\_\_\_\_\_  
John V. Forcier

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Submitted herewith are:

1. Transmittal Form (1 pg.);
2. Authorization to Charge Deposit Account (2 pgs.); and
3. Fee Transmittal Form (1 pg.) (in duplicate).

3089212\_1

# TRANSMITTAL FORM

Application Serial Number	09/915,216
Filing Date	July 25, 2001
First Named Inventor	Berger
Group Art Unit	3728
Examiner Name	A.D. Stashick
Attorney Docket No.	ADI-074
Patent No.	Not applicable
Issue Date	Not applicable

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Check Attached <input checked="" type="checkbox"/> Copy of Fee Transmittal Form <input type="checkbox"/> Amendment/Response <input type="checkbox"/> Preliminary <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets _____] <input type="checkbox"/> Petition for Extension of Time <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Form PTO-1449 <input type="checkbox"/> Copies of IDS Citations <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Sequence Listing submission <input type="checkbox"/> Paper Copy/CD <input type="checkbox"/> Computer Readable Copy <input type="checkbox"/> Statement verifying identity of above	<input type="checkbox"/> Copy of Notice to File Missing Parts of Application <input type="checkbox"/> Formal Drawing(s) <input type="checkbox"/> Request For Continued Examination (RCE) Transmittal <input type="checkbox"/> Power of Attorney (Revocation of Prior Powers) <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> CD(s) for large table or computer program <input type="checkbox"/> Amendment After Allowance <input type="checkbox"/> Request for Certificate of Correction <input type="checkbox"/> Certificate of Correction (in duplicate)	<input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences <input type="checkbox"/> Appeal Brief (in triplicate) <input type="checkbox"/> Status Inquiry <input type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8 <input checked="" type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8 <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below) Authorization to Charge Deposit Account
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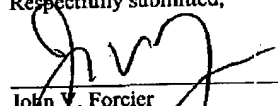
## CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator  
 Testa, Hurwitz & Thibault, LLP  
 125 High Street  
 Boston, MA 02110  
 Tel. No.: (617) 248-7000  
 Fax No.: (617) 248-7100

## SIGNATURE BLOCK

Date: July 1, 2004  
 Reg. No. 42,545  
 Tel. No.: (617) 310-8671  
 Fax No.: (617) 248-7100

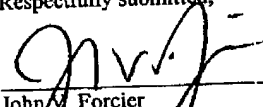
Respectfully submitted,

  
 John V. Forcier  
 Attorney for the Applicants  
 Testa, Hurwitz & Thibault, LLP  
 125 High Street  
 Boston, MA 02110

3089217\_1

FEE TRANSMITTAL FY 2004		Complete if Known	
		Application Serial Number	09/915,216
		Filing Date	July 25, 2001
		First Named Inventor	Berger
		Group Art Unit	3728
		Examiner Name	A. D. Stashick
		Attorney Docket No.	ADI-074

METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																							
1. <input checked="" type="checkbox"/> Payment Enclosed: <input type="checkbox"/> Check <input type="checkbox"/> Money Order <input checked="" type="checkbox"/> Other		3. ADDITIONAL FEES																																																																																							
2. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531. <input checked="" type="checkbox"/> Required Fees (copy of this sheet enclosed). <input type="checkbox"/> Additional fee required under 37 CFR 1.16 and 1.17. <input type="checkbox"/> Overpayment Credit.		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>130</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>50</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>130</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>2,520</td><td>2,520</td><td>Request for ex parte reexamination</td><td></td></tr> <tr><td>110</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>420</td><td>210</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>950</td><td>475</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1480</td><td>740</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>2010</td><td>1005</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>330</td><td>165</td><td>Notice of Appeal</td><td></td></tr> <tr><td>330</td><td>165</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>290</td><td>145</td><td>Request for oral hearing</td><td></td></tr> <tr><td>130</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr> <tr><td>180</td><td>180</td><td>Submission of Information Disclosure Statement</td><td></td></tr> <tr><td>770</td><td>385</td><td>Filing a submission after final rejection (37 CFR 1.129(a))</td><td></td></tr> <tr><td>770</td><td>385</td><td>For each additional invention to be Examined (37 CFR 1.129(b))</td><td></td></tr> <tr><td>100</td><td>100</td><td>Certificate of Correction for Applicant's error</td><td></td></tr> <tr><td>110</td><td>55</td><td>Submission of Terminal Disclaimer</td><td></td></tr> <tr><td colspan="2">Other fee (Specify)</td><td></td><td></td></tr> <tr><td colspan="2">Other fee (Specify)</td><td></td><td></td></tr> </tbody> </table>				Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid	130	65	Surcharge - late filing fee or oath		50	25	Surcharge - late provisional filing fee or cover sheet		130	130	Non-English specification		2,520	2,520	Request for ex parte reexamination		110	55	Extension for reply within first month		420	210	Extension for reply within second month		950	475	Extension for reply within third month		1480	740	Extension for reply within fourth month		2010	1005	Extension for reply within fifth month		330	165	Notice of Appeal		330	165	Filing a brief in support of an appeal		290	145	Request for oral hearing		130	130	Petitions to the Commissioner		180	180	Submission of Information Disclosure Statement		770	385	Filing a submission after final rejection (37 CFR 1.129(a))		770	385	For each additional invention to be Examined (37 CFR 1.129(b))		100	100	Certificate of Correction for Applicant's error		110	55	Submission of Terminal Disclaimer		Other fee (Specify)				Other fee (Specify)			
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CORRESPONDENCE ADDRESS		SIGNATURE BLOCK																																																																																							
Direct all correspondence to: Patent Administrator Testa, Hurwitz & Thibault, LLP 125 High Street Boston, MA 02110 Tel. No.: (617) 248-7000 Fax No.: (617) 248-7100		Respectfully submitted,  Date: July 1, 2004 Reg. No.: 42,545 Tel. No.: (617) 310-8671 Fax No.: (617) 248-7100 John V. Forcier Attorney for the Applicants Testa, Hurwitz & Thibault, LLP 125 High Street Boston, MA 02110																																																																																							

3089219\_1

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# FEE TRANSMITTAL FY 2004

Complete if Known

Application Serial Number	09/915,216
Filing Date	July 25, 2001
First Named Inventor	Berger
Group Art Unit	3728
Examiner Name	A. D. Stashick
Attorney Docket No.	AD1-074

# COPY

## FEE CALCULATION (continued)

### METHOD OF PAYMENT

1. ☒ Payment Enclosed:  
☐ Check ☐ Money Order ☒ Other
2. ☒ The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531.  
☒ Required Fees (copy of this sheet enclosed).  
☐ Additional fee required under 37 CFR 1.16 and 1.17.  
☐ Overpayment Credit.
3. ☐ Applicant claims small entity status.

### FEE CALCULATION

#### 1. FILING FEE

Large Entity Fee (\$)	Fee Description	Fee Paid
770	Utility filing fee	
340	Design filing fee	
160	Provisional filing fee	

Number Filed	Number Extra	Rate	Amount
Total Claims	- 20 =	x \$ 18.00 =	
Independent Claims	- 3 =	x \$ 86.00 =	
		\$290.00 =	

☐ Multiple Dependent Claim(s), if any

TOTAL:

SMALL ENTITY DISCOUNT:

SUBTOTAL (1) (\$ 0.00

#### 2. AMENDMENT CLAIM FEES

Claims Remaining After Amend.	Highest No. Previously Paid For	Present Extra	Rate	Fee Paid
Total 29	- 27 =	2	x \$ 18.00 =	36.00
Indep. 2	- 3 =	0	x \$ 86.00 =	
			+ \$290.00 =	

☐ First Presentation of Multiple Dep. Claim

TOTAL:

SMALL ENTITY DISCOUNT:

SUBTOTAL (2) (\$ 36.00

#### 3. ADDITIONAL FEES

Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid
130	65	Surcharge - late filing fee or oath	
50	25	Surcharge - late provisional filing fee or cover sheet	
130	130	Non-English specification	
2,520	2,520	Request for ex parte reexamination	
110	55	Extension for reply within first month	
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950	475	Extension for reply within third month	
1480	740	Extension for reply within fourth month	
2010	1005	Extension for reply within fifth month	
330	165	Notice of Appeal	
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770	385	For each additional invention to be Examined (37 CFR 1.129(b))	
100	100	Certificate of Correction for Applicant's error	
110	55	Submission of Terminal Disclaimer	
		Other fee (Specify)	
		Other fee (Specify)	

SUBTOTAL (3) (\$ 0.00

SUBTOTAL (1) 36.00  
 SUBTOTAL (2) 0.00  
 SUBTOTAL (3) 36.00

TOTAL (\$ 36.00

### CORRESPONDENCE ADDRESS

Direct all correspondence to:  
 Patent Administrator  
 Testa, Hurwitz & Thibault, LLP  
 125 High Street  
 Boston, MA 02110  
 Tel. No.: (617) 248-7000  
 Fax No.: (617) 248-7100

### SIGNATURE BLOCK

Respectfully submitted,

John V. Forcier  
 Attorney for the Applicants  
 Testa, Hurwitz & Thibault, LLP  
 125 High Street  
 Boston, MA 02110

Date: July 1, 2004  
 Reg. No.: 42,545  
 Tel. No.: (617) 310-8671  
 Fax No.: (617) 248-7100

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PATENT  
Atty. Docket No. ADI-074 RECEIVED  
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JUL 01 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Berger et al. CONFIRMATION NO: 5641  
SERIAL NO.: 09/915,216 GROUP NO.: 3728  
FILING DATE: July 25, 2001 EXAMINER: A. D. Stashick  
TITLE: Climate Configurable Sole and Shoe

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Applicants filed timely an Amendment and Response ("Amendment") via facsimile on April 5, 2004, in which Applicants added two dependent claims, namely claims 28 and 29. On June 9, 2004, a Notice of Allowance was mailed from the Patent Office. Applicants paid the issue and publication fees on June 17, 2004.

Upon further review, Applicants inadvertently did not include an excess claim fee payment or a further authorization in this application to charge the fee for the two additional dependent claims added by the Amendment filed on April 5, 2004. The application was filed with 27 total claims and 29 total claims were allowed. Therefore, Applicants believe that a fee is due for the two additional claims (i.e., \$36.00 for two extra claims at \$18.00 each). The failure to pay the fee was in error and without deceptive intent. Applicants have not received any notice of additional fees due from the Patent Office.

Authorization to Charge Deposit Account  
USSN 09/915,216  
Attorney Docket No. ADI-074

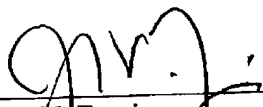
If the excess claim fee is due and has not been charged to our deposit account, the undersigned hereby authorizes the Director to charge our deposit account, No. 20-0531, for the \$36.00 excess claim fee, as well as any other fees that may be required, including but not limited to any extension of time fee required for accepting payment of the excess claim fee at this time. Further, if any extension of time is required, please consider this paper a conditional petition for the proper extension. In addition, Applicants include herewith a fee transmittal in duplicate.

Applicants respectfully request correction of this inadvertent error, without withdrawing the application from issue or otherwise delaying issuance of the patent.

The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

Date: July 1, 2004  
Reg. No. 42,545  
Tel. No. (617) 248-7675  
Fax No. (617) 790-0100

  
\_\_\_\_\_  
John V. Forcier  
Attorney for Applicants  
Testa, Hurwitz, & Thibault, LLP  
125 High Street  
Boston, MA 02110

3089035\_1